

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, }
Plaintiff, } CR. NO. 10-cr-279
vs. }
EUGENE ANTHONY THOMAS, }
Defendant. }

TRANSCRIPT OF SENTENCING

December 3, 2010

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: OFFICE OF THE UNITED STATES ATTORNEY
BY: JONATHAN FAHEY, ESQ.

FOR THE DEFENDANT: OFFICE OF THE FEDERAL PUBLIC DEFENDER
BY: AAMRA AHMAD, ESQ.

OFFICIAL COURT REPORTER: RENECIA A. WILSON, RMR, CRR
U.S. District Court
401 Courthouse Square
Alexandria, VA 22314
(703) 501-1580

3 THE CLERK: 1:10 criminal 279, United States
4 versus Eugene Anthony Thomas.

5 MR. FAHEY: Good morning, Your Honor.
6 Jonathan Fahey for the United States.

7 THE COURT: Good morning.

8 MS. AHMAD: Good morning, Your Honor. Aamra
9 Ahmad on behalf of Eugene Thomas who is present.

10 THE COURT: Good morning, Ms. Ahmad.
11 Good morning, Mr. Thomas.

12 MR. THOMAS: Good morning.

13 | THE COURT: Ms. Ahmad, I t

14 Mr. Thomas had an opportunity to review the presentence
15 report.

16 MS. AHMAD: Yes, Your Honor.

17 THE COURT: And, are there any objections to
18 the report?

19 MS. AHMAD: No objection to the Guideline
20 calculation and to any part of the report, Your Honor.

21 THE COURT: All right, thank you.

22 Mr. Fahey, I take it the government's had a
23 chance to review the presentence report.

24 MR. FAHEY: Yes, Your Honor.

THE COURT: No objection?

1 MR. FAHEY: There is no objection. There's
2 just one thing I just noticed on paragraph 12, the amount
3 is listed as \$250.

4 THE COURT: Just one second, let me get to
5 that page. Paragraph 12 of page 6, yes.

6 MR. FAHEY: We believe the amount should
7 actually be \$350 and we -- sorry we didn't catch that
8 sooner. I don't think there's any objections to that.

9 MS. AHMAD: We don't have any objection to
10 that.

11 THE COURT: All right, we'll change the
12 report, paragraph 12 to \$350 was taken from the cash
13 register. The victim gave Mr. Thomas \$350 from the cash
14 register in response to the robbery.

15 Does the government want to be heard on
16 sentencing in this matter, Mr. Fahey?

17 MR. FAHEY: Just briefly, Your Honor. As we
18 described in our past papers and we're asking for the
19 mandatory minimum of 35 years which in this case is
20 supported by the 3553 factors.

21 As the Court's aware, this defendant not only
22 pled guilty to the two offenses that he committed but he
23 also admitted in the statement of facts to 12 robberies
24 in total, all of these robberies involving firearms. One
25 of these robberies involved a firearm being discharged.

1 Each robbery put victims --

2 THE COURT: Tell me more about the discharge
3 of the weapon.

4 MR. FAHEY: The -- on the discharge one, the
5 defendant initially demanded money or demanded a safe to
6 be opened. The -- the victim didn't immediately comply.
7 The firearm was discharged on the ground or towards --
8 towards the ground. I believe the defendant's position
9 is it was accidental. That was discharged.

10 But in either event, he certainly put the
11 victim in danger, his life in danger. And even the other
12 ones when the firearm wasn't discharged, every victim was
13 placed in danger. And these victims are simply people
14 working as clerks in stores, just trying to do their jobs
15 and they were placed in danger by the defendant for
16 relatively small amounts of money in each of these cases,
17 the amounts are several hundred dollars or -- I think the
18 most was maybe a thousand dollars.

19 So, under the 3553 factors, it certainly is a
20 serious -- serious offense and a number of serious
21 offenses.

22 In addition to that, Your Honor, the 35-year
23 sentence would protect the public and promote respect for
24 the law. It would deter the defendant and hopefully
25 deter others from engaging in similar conduct, and it

1 would avoid any unwarranted disparities because
2 similarly-situated defendants who have committed these
3 same offenses have received similar sentences.

4 So for all those reasons, we do ask for a
5 sentence of 35 years.

6 THE COURT: All right.

7 Ms. Ahmad, I'll hear from you.

8 MS. AHMAD: Yes, Your Honor.

9 Your Honor, we understand that there's a
10 mandatory minimum in this case, and we understand that
11 this Court can go all the way up to life in this case.

12 We submit that a sentence no greater than the
13 mandatory minimum should be imposed.

14 At the same time, though, we also submit that
15 the mandatory minimum does not adequately take into
16 consideration the 3553(a) factors. We know the Court
17 cannot go below 35 years. We think 35 years is too high,
18 but we would respectfully ask for a sentence no greater
19 than the mandatory minimum.

20 We submit that the mandatory minimum does not
21 adequately take into consideration my client's childhood.
22 He grew up without a male role model. He was neglected
23 by a mother who I'm sure tried but she was working full
24 time and raising three sons.

25 There was a great deal of instability in his

1 background. He left his mother's home at the age of 16,
2 went around living with other family members. He also
3 developed a significant substance abuse problem and
4 during his developmental years was regularly, on a daily
5 basis, using marijuana. And we'll never know how that
6 substance abuse affected his cognitive abilities and any
7 decisions that he has made since then.

8 His criminal history is not what we would
9 expect to see in a case where the mandatory minimum is
10 35 years.

11 He has no history of using weapons in his
12 prior offenses. He has served one jail sentence that was
13 six years ago and that was an 11-month sentence.

14 All of his other offenses were offenses that
15 resulted in sentences of probation or of a fine.

16 Thirty-five years does reflect the
17 seriousness of the offense, but it does not take into
18 consideration that this conduct was a serious departure
19 from his past conduct. It does not reflect that at the
20 time of the offense he was drinking to the point of
21 intoxication daily. It does not reflect the remorse that
22 he has expressed to the probation office. It does not
23 reflect the efforts that he made to plead guilty
24 pre-indictment, to accept responsibility for his conduct.
25 It does not take into consideration adequately the

1 apology that he's going to try to express to the Court
2 today, and I'll try to let him do that.

3 He asks the Court to consider his remorse.
4 He asks the Court to consider his age. He asks the Court
5 to consider the promise that he does have, and that has
6 been shown, I hope, through his past employment record
7 and through the letters that his family has written to
8 the Court.

9 But we do understand that there's a mandatory
10 minimum. We ask the Court to not go above that mandatory
11 minimum. We are hopeful that we will be back in front of
12 the Court at some other time. We don't know that that
13 would happen, but we're hopeful for that.

14 THE COURT: All right.

15 Mr. Thomas, if you'd come to the podium with
16 your lawyer, please.

17 Mr. Thomas, is there any statement you want
18 to make on your own behalf?

19 MR. THOMAS: Yes, sir.

20 THE COURT: I'm listening.

21 MR. THOMAS: I wrote a letter. First, I
22 would like to send my deepest apologies to the victims
23 and the victims' family for these terrible acts of
24 violence I committed upon them.

25 I am deeply, deeply remorseful for what I

1 have done and hope somewhere down the line each person
2 could forgive me.

3 Next, I would like to apologize to my
4 daughter and my entire family for letting them down and
5 bringing unneeded stress to their lives for which I am
6 truly sorry.

7 I accept what I did was wrong as a man. We
8 have choices, and these choices we have to live with. I
9 take full responsibility for my actions, and wish I could
10 change them if I could.

11 I've learned my lesson and understand I have
12 to be punished for these crimes I've committed. I just
13 ask the Court to find in their hearts to see that I'm a
14 loving, caring, compassionate person who comes from a
15 great family that makes terrible, terrible decisions and
16 not to look solely on the crimes or the severity of them
17 as well.

18 I just want another chance to be a productive
19 citizen in society. Thank you.

20 THE COURT: Mr. Thomas, you're before the
21 court as your lawyer and as you know for some very, very
22 serious offenses, 12 armed robberies. And something in
23 you decided to go out and threaten these clerks at the
24 gas stations and convenient stores and to rob them, not
25 once, not twice, but 12 different times.

1 The maximum punishment is life. Why
2 shouldn't you get a life sentence?

3 MR. THOMAS: Why shouldn't I?

4 THE COURT: Yeah.

5 MR. THOMAS: Like I said, I understand the
6 severity of the crime, and at that time when I was out
7 committing these crimes, I really wasn't in my right
8 state of mind.

9 I -- something I never done before. I'm not
10 making any excuses, but I believe that I shouldn't get a
11 life sentence because I think I have the ability to
12 rehabilitate and to come out and do way better than I
13 have.

14 THE COURT: Well, Mr. Thomas, I've read the
15 letters submitted by your aunt and by your family and
16 Ms. Shaman says -- Paris Shaman I think is your cousin.
17 You were drinking energy drinks and caffeine I guess in
18 addition to doing alcohol. And your aunt said that you
19 did well in school and that you attended culinary school.
20 And your friend Brian said that you were a writer and a
21 cook.

22 There is something there. But the bad part
23 of it is very, very dangerous and presents a threat to
24 public safety, particularly those who work and earn
25 minimum wage, who go to work every day at convenient

1 stores, gas stations, who are just trying to do their
2 work and some guys comes along and threatens their life
3 with a gun and in this one instance where a weapon was
4 discharged.

5 I don't have to tell you because you heard
6 what the prosecutor said that the risk of what could have
7 occurred there is quite substantial.

8 Congress has already decided the minimum
9 sentence. My question is whether I should give you a
10 life sentence. And there are others who I've given,
11 individuals who have committed multiple armed robberies a
12 life sentence before because I think they need to be
13 separated from the rest of us for the rest of their
14 lives.

15 What you have going for you basically is your
16 youth, your age, 25, and the fact that you have not in
17 your prior record -- you don't have any prior history of
18 violent crime. So what I'm going to do is this. I'm
19 going to give you the sentence that your lawyer and I and
20 the government, I think, ultimately thinks is probably
21 appropriate here which is 35 years.

22 So I'm going to sentence you to a term of
23 120 months on Count I, and 300 months on Count II. The
24 sentence in Count II will run consecutive with the
25 sentence in Count I.

1 I'm going to place you on a term of
2 supervised release for five years as to each count. They
3 will run concurrently, at the same time. I'm going to
4 require you to participate in substance abuse treatment
5 and testing at the direction of the probation officer and
6 also require you to pay restitution to the victims that
7 are enumerated in the report including Sunoco, BP, and I
8 think that there are others who are listed, and your
9 lawyer and you are very familiar with them.

10 I'm not going to impose any fine because I
11 make a finding you do not have the ability to pay any
12 fine, cost of incarceration or cost of supervision. And
13 the \$200 special assessment has to be paid right away.

14 So to be clear, I'm giving you the mandatory
15 minimum which is 35 years. And if you were to come back
16 at any time that I certainly would consider what takes
17 place then. But for right now, it's 35 years.

18 And given the gravity of the offenses, the 12
19 armed robberies and Congress' direction, I think that's
20 sufficient under these circumstances.

21 I remand you to custody at this time.

22 Thank you.

23 MR. THOMAS: Thank you.

24 THE COURT: You have a restitution order?

25 MR. FAHEY: Your Honor, we do. If we could

1 submit it later just so that there's time for him to
2 review it.

3 THE COURT: That's fine. All right.

4 Thank you.

5 MS. AHMAD: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (Proceeding concluded at 9:30 a.m.)

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CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United State District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the sentencing in the case of United States of America vs. Eugene Anthony Thomas.

9 I further certify that I was authorized and
10 did report by stenotype the proceedings and evidence in
11 said sentencing, and that the foregoing pages, numbered 1
12 to 12, inclusive, constitute the official transcript of
13 said proceedings as taken from my shorthand notes.

14 IN WITNESS WHEREOF, I have hereto subscribed
15 my name this 22nd day of April, 2015.

/s/
Renecia Wilson, RMR, CRR
Official Court Reporter